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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,479	04/02/2004	Ruey J. Yu	8976-227U1	2318

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER

CLAYTOR, DEIRDRE RENEE

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/817,479

Applicant(s)

YU ET AL.

Examiner

Renee Claytor

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,5-8,11-21,23,24,26-29 and 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9,10,22,25 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/05, 3/28/05, 8/30/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's election of the following species is hereby acknowledged: 1. polyhydroxy-aldonic lactone, more specifically gluconolactone, 2. an antiacne agent, more specifically benzoyl peroxide, and 3. a dermatological disorder, more specifically rosacea. Claims 1-2, 4, 9, 22, 25 and 30 read on the elected species and are being examined on the merits herein. Claims 2, 5-8, 10-21, 23-24, 26-29, and 31-34 are withdrawn from consideration as they don't read on the elected species. The election requirement is deemed proper and made FINAL.

Priority

This application claims priority to U.S. Provisional Application 60/460,322 filed on 4/4/2003. Applicant's priority is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 9-10, 22, 25, and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Gans et al. (U.S. Patent 5,648,389) in view of Murad et al. (U.S. Patent 6,296,880).

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Gans et al. teach a dermatological composition comprised of a polyhydroxy-aldonic lactone agent such as gluconolactone (Col. 2, lines 58-67) and benzoyl peroxide (Col. 2, line 44).

Gans et al. do not teach that this dermatological composition is used for the treatment of rosacea.

Murad et al. teach a formulation for the treatment of skin conditions, including rosacea (Col. 5, lines 1-5). The pharmaceutical composition includes a combination of a number of different components and within the suggested compounds listed are gluconolactone (Col. 6, line 5) and benzoyl peroxide (Col. 6, line 67).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Gans et al., which teaches a dermatological composition comprised of gluconolactone and benzoyl peroxide, with Murad et al. which teach a formulation to treat skin conditions such as rosacea with benzoyl peroxide and gluconolactone among the list of possible ingredients to be used. One having ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Gans et al. with Murad et al. to provide a composition comprising gluconolactone and benzoyl peroxide that will have a pronounced effect at treating rosacea.

Conclusion

No claims are allowed.

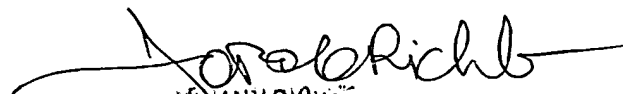
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is 571-272-8394. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor

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JOHANN RICHTER
SUPERVISOR/PATENT EXAMINER
GROUP 1600